



MEMORANDUM

Austin Police Department *Office of the Chief*

TO: Mayor and Council Members
FROM: Brian Manley, Chief of Police
DATE: February 27, 2019
SUBJECT: 2018 Racial Profiling Report

Pursuant to state racial profiling reporting requirements, the Austin Police Department (APD) submits racial profiling reports to the Texas Commission on Law Enforcement, as well as the Mayor and Austin City Council by March 1.

The 2018 Racial Profiling Report and Complaints are attached. Notable findings include the following:

- Motor vehicle stops decreased 14%.
- Searches yielded contraband at a similar rate (27-31%) across White, Black, and Hispanic motorists.
- In absence of a contract, the Office of the Police Monitor was unable to take complaints for almost all of 2018. During 2018, there were 4 formal and 9 informal complaints of racial profiling, a significant decrease from the 10 formal and 60 informal complaints during 2017. No complaints resulted in a sustained finding.

Finally, Dr. Alex Del Carmen, a leading state expert in racial profiling, reviews our racial profiling data throughout the year to ensure the Austin Police Department complies with the Texas Racial Profiling Law. Through these periodic audits and year-end analysis of our complete data, Dr. Del Carmen has confirmed APD's compliance with recently expanded legal requirements.

Please contact me or my staff should you have any questions.

Brian Manley
Chief of Police

cc: Spencer Cronk, City Manager
Rey Arellano, Assistant City Manager

Attachments

Austin Police Department

Annual Racial Profiling Report: 2018



Prepared by the Austin Police Department
Research and Planning Unit
February 2019

Introduction

This report contains data regarding motor vehicle stops made by Austin Police Department police officers during 2018. The department maintains a strong stance against racial profiling; the policy and practice is to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group. In 2018, the City of Austin had a citizen complaint process where any allegations of racial profiling can be brought forward for investigation.

The report contains the following:

- Motor vehicle stops - by year and by race/ethnicity;
- Searches resulting from those stops - by year, by race/ethnicity and by type; and
- Search results (“hit rate”) - by year and by race/ethnicity.

Changes in this year’s reporting

There were no changes in 2018 to Racial Profiling policy or report methodology.

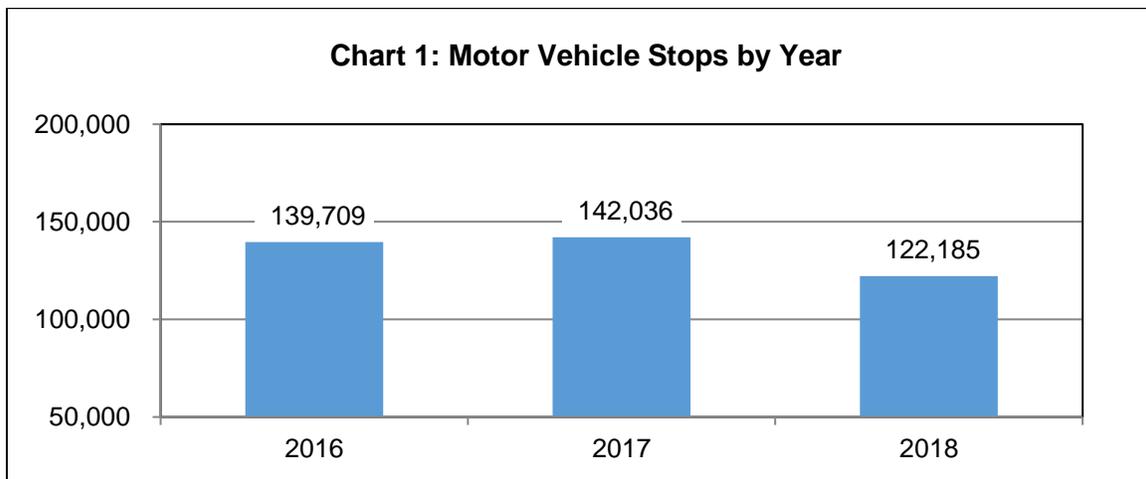
The Sandra Bland Act of 2017 expanded the mandated report to Texas Commission on Law Enforcement (TCOLE). At the same time, the racial profiling law’s definition for “race or ethnicity” condensed to include only: Alaska native or American Indian; Asian or Pacific Islander; Black; White; and Hispanic or Latino. However, APD’s data also include subjects with Middle Eastern and Other races, as is shown in this full report. TCOLE does not establish guidelines on how to report races outside its definition. Therefore, APD has chosen to exclude these stops from the report to TCOLE in order to preserve the actual counts of the reportable races.

This full report will continue to provide a more comprehensive representation of APD stop and search data, as it includes all races in APD’s data.

Motor vehicle stops

Austin police officers made 122,185 motor vehicle stops in 2018. These are stops that resulted in a citation, warning, field observation, or arrest. This compares to 142,036 in 2017. The primary reason for a motor vehicle stop was a traffic violation such as speeding, an illegal turn, or other observed violation of Texas motor vehicle laws.

As shown in the following chart, motor vehicle stops decreased 14% from 2017 to 2018. This decline was due to several limitations on officers' availability: a recall of vehicles resulting in two officers per patrol vehicle for approximately five months of the year; a vacancy rate for patrol officers averaging over 10% citywide; and a change in the vacation policy, which limited officers' ability to work overtime on grant-funded traffic enforcement.



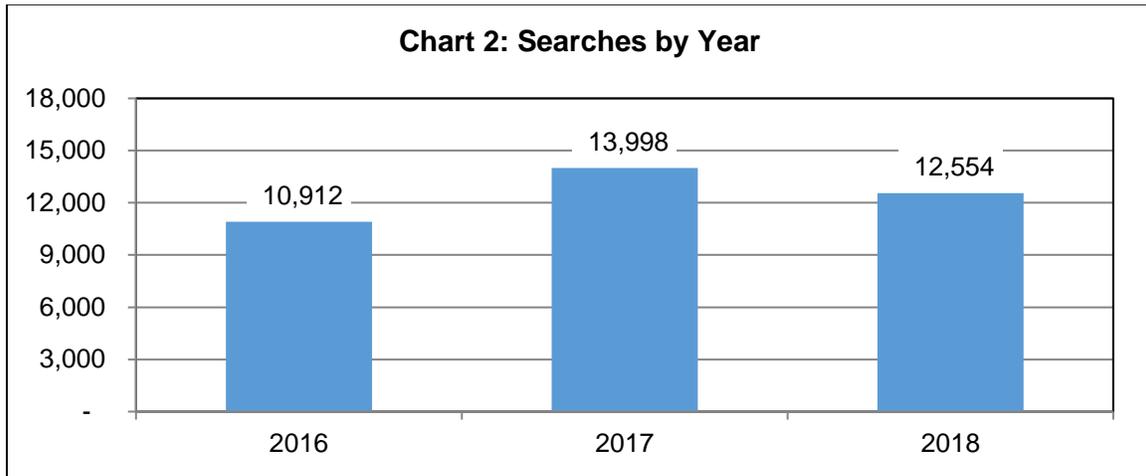
The distribution of stops by race/ethnicity in 2018 was similar to that seen in 2017.

Table 1: Motor Vehicle Stops by Race/Ethnicity

Race/Ethnicity	2017 Stops		2018 Stops	
	count	% of total	count	% of total
White	67,347	47.4%	57,173	46.8%
Hispanic	44,899	31.6%	39,946	32.7%
Black	19,977	14.1%	17,754	14.5%
Asian	4,596	3.2%	4,387	3.6%
Middle Eastern	1,982	1.4%	2,180	1.8%
Native American	87	0.1%	60	0.0%
Other	3,148	2.2%	685	0.6%
Total	142,036	100%	122,185	100%

Searches resulting from motor vehicle stops

The number of searches resulting from motor vehicle stops decreased 10%: from 13,998 in 2017 to 12,554 in 2018. The search rate (searches as a percent of stops) was 10.3% during 2018, up slightly from 10% during 2017.



The distribution of searches by race/ethnicity in 2018 was similar to that seen in 2017.

Table 2: Searches by Race/Ethnicity

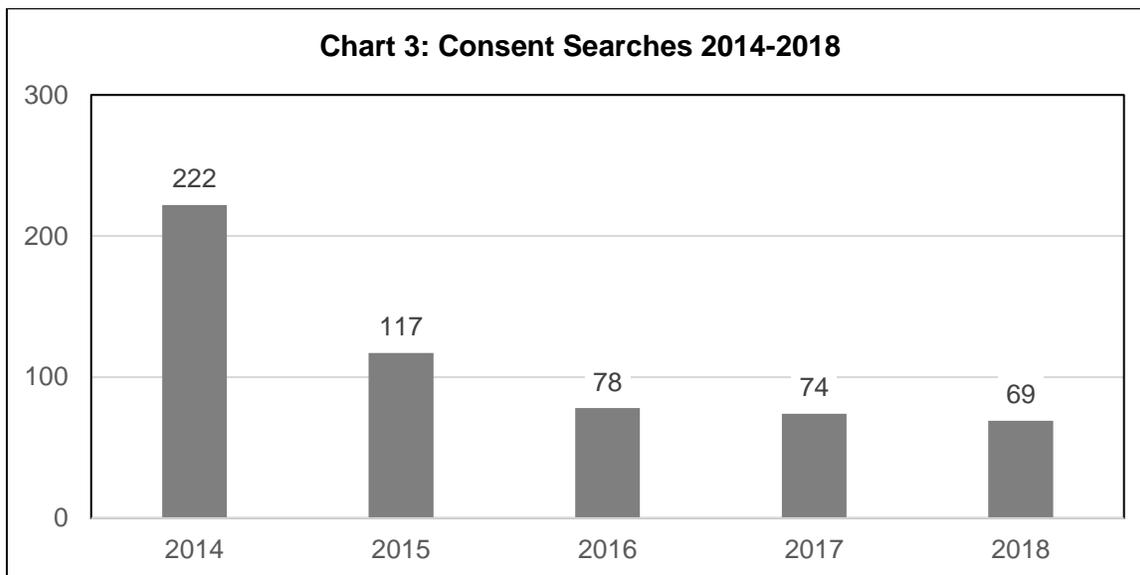
Race/Ethnicity	2017 Searches		2018 Searches	
	count	% of total	count	% of total
White	4,139	29.6%	3,704	29.5%
Hispanic	5,932	42.4%	5,514	43.9%
Black	3,602	25.7%	3,072	24.5%
Asian	162	1.2%	150	1.2%
Middle Eastern	66	0.5%	64	0.5%
Native American	12	0.1%	7	0.1%
Other	85	0.6%	43	0.3%
Total	13,998	100%	12,554	100%

Searches resulting from motor vehicle stops: consent searches

Searches that result from motor vehicle stops can be categorized as **consent or non-consent searches**:

- **Consent searches** occur when the officer asks for permission to conduct the search and the citizen consents to be searched. Under most circumstances, a driver must give permission for a search in writing before a consent search can be initiated.
- **Non-consent searches** occur after an arrest or if the officer develops probable cause. Probable cause requires reasonable grounds to suspect a person has committed or is committing a crime and gives an officer the legal authority to search without consent.

Consent searches decreased from 74 in 2017 to 69 in 2018, continuing the downward trend seen in previous years.



APD Policy 306.5 (Search and Seizure, Consent) reinforces that officers should be deliberate when making search decisions:

Officers should be aware that overuse of the consent search can negatively impact the Department's relationship with our community and only request a consent search when they have an articulable reason why they believe the search is necessary and likely to produce evidence related to an investigation.

The number of non-consent searches decreased from 2017 to 2018, and they remained the vast majority (more than 99%) of total searches. This pattern is consistent across all races/ethnicities.

Searches resulting from motor vehicle stops: by search type and race/ethnicity

The tables below show searches by type (consent, non-consent) and race/ethnicity. For non-consent searches, which are the majority of searches, the distribution by race/ethnicity is consistent from 2017 to 2018. For consent searches, however, the distribution by race/ethnicity varies more due to their small numbers.

Table 3a: Search Types by Race/Ethnicity (2018)

Race/Ethnicity	Consent Search		Non-Consent Search	
	count	% of total	count	% of total
White	19	27.5%	3,685	29.5%
Hispanic	38	55.1%	5,476	43.9%
Black	12	17.4%	3,060	24.5%
Asian	0	n/a	150	1.2%
Middle Eastern	0	n/a	64	0.5%
Native American	0	n/a	7	0.1%
Other	0	n/a	43	0.3%
Total	69	100%	12,485	100%

Table 3b: Search Types by Race/Ethnicity (2017)

Race/Ethnicity	Consent Search		Non-Consent Search	
	count	% of total	count	% of total
White	14	18.9%	4,125	29.6%
Hispanic	35	47.3%	5,897	42.4%
Black	25	33.8%	3,577	25.7%
Asian	0	n/a	162	1.2%
Middle Eastern	0	n/a	66	0.5%
Native American	0	n/a	12	0.1%
Other	0	n/a	85	0.6%
Total	74	100%	13,924	100%

Searches resulting from motor vehicle stops: “hit rates”

Productive searches or “hits” are searches where contraband is found (e.g., drugs or weapons). The table below shows that, for all searches, productivity was 29% in 2018.

Table 4: Search Hit Rates – ALL Searches

Race/Ethnicity	2017			2018		
	Hits	Searches	Hit Rate	Hits	Searches	Hit Rate
White	1,326	4,139	32%	999	3,704	27%
Hispanic	1,977	5,932	33%	1,669	5,514	30%
Black	1,355	3,602	38%	957	3,072	31%
Asian	51	162	31%	34	150	23%
Middle Eastern	22	66	33%	15	64	23%
Native American	3	12	25%	3	7	43%
Other	24	85	28%	6	43	14%
Total	4,758	13,998	34%	3,683	12,554	29%

The table below shows that total consent searches produced a hit rate of 30%, higher than for all searches. Consent search hit rates are based on increasingly smaller counts each year; variability across races/ethnicities does not indicate a meaningful trend.

Table 5: Search Hit Rates – CONSENT Searches

Race/Ethnicity	2017			2018		
	Hits	Searches	Hit Rate	Hits	Searches	Hit Rate
White	6	14	43%	7	19	37%
Hispanic	14	35	40%	7	38	18%
Black	12	25	48%	7	12	58%
Asian	0	0	n/a	0	0	n/a
Middle Eastern	0	0	n/a	0	0	n/a
Native American	0	0	n/a	0	0	n/a
Other	0	0	n/a	0	0	n/a
Total	32	74	43%	21	69	30%

Summary of Complaints Alleging Racial Profiling, 2018

In 2018 there were 4 formal complaints and 9 informal complaints of racial profiling reported to the Internal Affairs Division. Complaints are included if any part of the complaint alleges disparate treatment based on race or ethnicity, regardless of the merit of the allegation. This compares to 10 formal and 60 informal complaints in 2017.

Racial profiling complaints against the department are received in multiple ways. Complaints may be received from within the department, from a citizen to a member of the department. Most commonly racial profiling complaints are made through the Office of Police Oversight (formerly Office of the Police Monitor). However, in December of 2017 the Meet and Confer Agreement between the City of Austin and the Austin Police Association expired. As a result, OPO was unable to accept complaints through the majority of 2018. All external complaints on officer conduct were made through Internal Affairs.

Formal complaints are either notarized complaint affidavits or are submitted on an “Internal Affairs Complaint” form, and are investigated by Internal Affairs Division (IAD). Informal complaints are any for which no formal complaint has been received by IAD. Depending on the seriousness of the alleged complaint, it may be investigated by the IAD or investigated by the subject officer's chain of command. Complaints directed to the IAD will undergo an initial assessment, which will determine whether further investigation is warranted and designate a classification level for the complaint.

The outcome of an investigation can be: sustained, unfounded, exonerated, inconclusive, administratively closed, or a supervisor referral. A finding that is “sustained” indicates the investigation disclosed sufficient evidence to establish that the act occurred and that it constituted misconduct. A finding that is “unfounded” indicates the investigation disclosed that the alleged act(s) did not occur. A finding of “exonerated” indicates the investigation disclosed that the alleged act occurred but that the act was justified, lawful and/or proper according to Departmental policy. A finding of “inconclusive” indicates the investigation disclosed that there is insufficient evidence to sustain the complaint or fully exonerate the employee. An investigation may be “administratively closed” under the following circumstances: an administrative inquiry has been completed and no allegations were made or misconduct discovered; the case was classified as a lower level complaint; at the discretion of the Chief or designee. A “supervisor referral” is an informal complaint that did not result in an investigation but was referred to a supervisor for attention. At the conclusion of an investigation, the complainant is notified of the outcome in writing.

“Contact” or “Citizen Concern” is designated as a complaint type by the Internal Affairs Division and/or Office of the Police Monitor for cases that do not rise to the level of a formal or informal complaint because the complainant did not wish to speak to a supervisor nor did they wish to make a formal complaint. Cases classified as a contact or citizen concern can come in many ways including but not limited to a Complainant Contact Form (CCF) or through contact directly with the Office of the Police Monitor or Internal Affairs. In a CCF, a supervisor speaks to the complainant to address their concerns on the scene of the incident or over the phone. While addressing their concerns, they review all available evidence which may include video or body worn camera (BWC) footage. The supervisor then forwards the information on the CCF to

IAD for documentation. Additionally, the supervisor provides the contact information for the Office of the Police Monitor for follow-up should the complainant wish to make a formal complaint. In the review of a CCF, the affected officer's chain of command may initiate an internal formal complaint if they observe policy violations.

Formal Complaints

1. Case Number: 2018-0068

Complaint Reported: The complainant reported that he was walking with two of his friends through a parking lot when stopped by an officer. He stated, *"I was racial profiled as a Hispanic male, because I was walking with two black guys"*. He expressed concern this is the second time the same officer has stopped him and believed it to be harassment.

Outcome: Administratively Closed

Reason for Contact: Viewed Offense

2. Case Number: 2018-0237

Complaint Reported: Officers detained and subsequently questioned a subject about an alleged assault committed in DTAC the previous night. The complainant was a witness to the incident, which had occurred the year prior to the complaint being made. The complaint detailed a litany of allegations, none of which specifically mentioned racial profiling, however, the typed addendum to the initial complaint paperwork does state *"For any young black male, history proves that even one armed police officer represents a life-threatening situation."*

Outcome: Exonerated

Reason for Contact: Call for Service

3. Case Number: 2018-0585

Complaint Reported: The complainant stated that during a traffic stop she was detained and handcuffed prior to being frisked. She requested a female officer prior to being frisked but was denied, which made her feel uncomfortable. She further alleges the officer lied on the citation she received and believes there was racial bias which was described as, *"bc he followed me for a mile before anything."*

Outcome: Administratively Closed

Reason for Contact: Traffic Violation

4. Case Number: 2018-0656

Complaint Reported: The complainant expressed he was the subject of discrimination, alluding to having been racially profiled by an officer at H-E-B. He stated the store manager asked an officer to check on him for possible theft. After being approached by the officer he went to speak with store management about why they requested the officer and they stated they did not make the request.

Outcome: Administratively Closed

Reason for Contact: Call for Service

Informal Complaints

1. **Case Number:** 2018-0058
Complaint Reported: The complainant stated a police vehicle followed her vehicle and after turning into an establishment the officers stopped her. She opined that she was stopped because of her race and stated that the two female officers were rude, profiled her, and were aggressive.
Outcome: Supervisor Referral
Reason for Contact: Traffic Violation
2. **Case Number:** 2018-0235
Complaint Reported: The complainant stated she was hit by a vehicle while walking through a crosswalk. She believed the responding officer was racially biased when he remarked to another person *"let's hope she doesn't have an A or B."* The complainant stated she believed that to be in reference to the possibility of a class A or B warrant. She said it was omitted from the report because of her race.
Outcome: Supervisor Referral
Reason for Contact: Call for Service
3. **Case Number:** 2018-0373
Complaint Reported: The complainant stated he was pulled over twice, within two weeks, and believes he is being profiled. He recently purchased a vehicle and feels he is being targeted because of the temporary plates. He stated the officer told him the paper plates were forgeries and the officer accused him of printing fake plates, telling him they were in the incorrect font and the vehicle was stolen. He said he feels that he is being racially profiled due to being Hispanic and driving a Lincoln.
Outcome: Supervisor Referral
Reason for Contact: Traffic Violation
4. **Case Number:** 2018-0459
Complaint Reported: The complainant stated she was pulled over and cited by an officer. She stated the officer said he had let five vehicles go before her with warnings, she asked for the same courtesy, and he told her no. She said the officer replied with *"there are many more violations I could cite you with"*, implying to her that she should be lucky to only get the ticket she did. She believes she was ticketed because of her race.
Outcome: Supervisory Referral
Reason for Contact: Traffic Violation
5. **Case Number:** 2018-0655
Complaint Reported: The complainant stated she received a citation for electronic use while driving. While searching for her DL the officer saw her passport in the cup holder and opted to take that as identification. She said that in her passport photo she is wearing a hijab, the ticket indicates she is listed as middle eastern, however, you can't tell by looking at her. She felt the officer profiled her being Muslim because of the passport photo.
Outcome: Supervisor Referral
Reason for Contact: Traffic Violation

6. **Case Number:** 2018-0760
Complaint Reported: The complainant stated after leaving a store, a police vehicle followed her into a nearby church parking lot. She said an officer immediately handcuffed her and during the whole interaction, all three were rude and racist. She felt the officers should not have given her a criminal trespass notice as the officers were not on scene at the store.
Outcome: Supervisor Referral
Reason for Contact: Call for Service
7. **Case Number:** 2018-0953
Complaint Reported: The complainant stated that she wanted to make a complaint on an officer that was rude to her. She stated the officer was nice to the Hispanic male but rude to her and that he "*ran*" her and almost took her to jail for another ticket that she had.
Outcome: Supervisor Referral
Reason for Contact: Call for Service
8. **Case Number:** 2018-0956
Complaint Reported: The complainant wished to speak with a supervisor, stating she was racially profiled by the officer and was stopped because of her race. She stated she was followed by the officer, pulled over, and ticketed for having an expired registration, however, her VA state plate has a current registration sticker of December 2018.
Outcome: Supervisory Referral
Reason for Contact: Traffic Violation
9. **Case Number:** 2018-1101
Complaint Reported: The complainant stated she was involved in a collision and the responding officer's demeanor changed after he looked up the other driver's license plate. She stated she doesn't know if it is because he is Hispanic and the other lady who she hit is Hispanic.
Outcome: Citizen Contact
Reason for Contact: Call for Service